IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6837 of 2007()

CC.122/2003 of J.M.F.C.-I,KOZHIKODE

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PETITIONER :

USMAN,S/O.ABDURAHIMAN,PALLISSERY HOUSE,
ANCHAHCAVIDI P.O,KALIKAVU AMSOM,NILAMBUR,
MALAPPURAM DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

STATE OF KERALA THROUGH THE SUB
INSPECTOR OF POLICE,TOWN POLICE STATION,KOZHIKODE,
REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT
OF KERALA,ERNAKULAM.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6837 OF 2007

Dated this the 7th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment in a prosecution under Sec.379 of the IPC. The crime was registered in 2003 and cognizance was taken on the final report submitted by the police also in 2003. The petitioner was enlarged at the crime stage, it is submitted. But subsequently, consequent to the non-appearance of the petitioner, a warrant of arrest has been issued by the learned Magistrate against the petitioner. The petitioner has not appeared before the learned Magistrate after cognizance was taken in 2003. The warrant of arrest issued by the learned Magistrate is chasing the petitioner.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The

petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge